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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,561	03/23/2004	David L. Marvit	073338.0187 (04-50459 FLA	8346
5073	7590	09/04/2007	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			LIANG, REGINA	
			ART UNIT	PAPER NUMBER
			2629	
			NOTIFICATION DATE	DELIVERY MODE
			09/04/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mike.furr@bakerbotts.com  
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## Office Action Summary

Application No.

10/807,561

Applicant(s)

MARVIT ET AL.

Examiner

Regina Liang

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/22/07 has been entered. Claims 1-20 are pending in the application.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

3. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ide et al (US 5,598,187 hereinafter Ide) in view of Lapidot (WO 01/86920).

As to claims 1, 20, Ide discloses a motion controlled handheld device (Figs. 1, 2, 15) comprising:

a gesture database (42 in Fig. 15, col. 14, lines 33-34) maintaining a plurality of gestures, each gesture defined by a motion of the device with respect to a first position of the device;

a gesture mapping database comprising a mapping of each of the gestures to an associated command (42 in Fig. 15, col. 14, lines 35-42);

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a motion detection module (motion detectors 30a, 30b) operable to detect motion of the device within three dimensions and to identify components of the motion in relation to the viewable surface;

a display control module having a first mode of motion input operation (pointer function mode in Figs. 1, 2) and a second mode of motion input operation (motion pattern input function mode in Fig. 15);

the display control module operable in the first mode of motion input operation (pointer function mode as disclosed in Figs. 1-3, col. 7, lines 11-29 for example), lines to monitor the motion of the device, to determine a location of the device resulting from the motion, and to modify the current image based on the resulting location of the device as compared to an initial location of the device prior to the motion of the device;

the display control module operable in the second mode of motion input operation (motion pattern input function mode as disclosed in Fig. 15, col. 13, line 40 to col. 14, lines 42 for example) to monitor the motion of the device, to track movement of the handheld device using the motion detection module, the tracked movement identifying a path traveled by the device, to compare the path the gestures to identify a matching gesture, to identify one of the commands associated with the matching gesture, and to modify the current image based on the identified command; and

a mode selection module operable to detect a mode selection trigger and to switch between the first mode of motion input operation and the second mode of motion input operation in response to detecting the mode selection trigger (col.15, lines 39-44, col. 22, lines 20-41).

Ide does not disclose the handheld device comprising a display. However, Lapidot is cited to teach a handheld device similar to Ide. Lapidot teaches a small handheld device with display screen for controlling the information presented in its display (see Fig. 1 and page 1, lines 16-19). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the motion controlled handheld device of Ide to have a display as taught by Lapidot so as to provide a small handheld device for conveniently controlling the function of the handheld device and the presentation of information in the display of the device (page1, lines 16-19).

As to claims 2-3, Ide teaches the mode selection trigger comprises a change in a state of the device and the change in the state of the device occurs when the device switches from a first application (Fig. 1) to a second application (Fig. 16).

As to claim 4, Ide teaches the change in the state of the device occurs when the current image switches from a first image (cursor movement in Fig. 1) to a second image (volume control in Fig.16).

As to claim 5, Ide teaches the mode selection modules switches from the first mode to the second mode in response to detecting a first mode selection trigger, and the mode selection modules switches from the second mode to the first mode in response to detecting a second mode selection trigger different than the first mode selection trigger (col. 22, lines 20-41).

As to claim 6, Ide teaches the mode selection trigger comprises one of the gestures (col. 22, lines 31-32).

As to claim 7, Ide teaches the mode selection trigger comprises non-motion related input received using a user interface of the device (col. 22, lines 30-31, 35-41).

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As to claim 8, Figs. 1, 5 of Lapidot teaches a motion controlled device having a mode operation (N) is for neutral condition, the use of movements to control functions of the device or its display unit is disabled (this corresponds to the display control module operable in the third mode of operation to disregard the motion of the device).

As to claim 9, Fig. 6 of Lapidot teaches the handheld device comprising three accelerometers operable to detect acceleration along a first, a second and a third axis.

Claims 10-19 which method claims corresponding to the above apparatus claims, are rejected for the same reasons as stated above since such method "steps" are clearly read on by the corresponding "means".

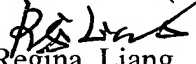
#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Regina Liang whose telephone number is (571) 272-7693. The examiner can normally be reached on Monday-Friday from 8AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe, can be reached on (571) 272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Regina Liang  
Primary Examiner  
Art Unit 2674

8/15/07